September 13, 2018

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554
VIA ECFS

CC: Chief Counsel for Office of Advocacy
U.S. Small Business Administration
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Re: WC Docket No. 18-155

My name is Leo A. Wrobel[1] and I am the founder and CEO of FailSafe Communications Inc. (FailSafe)

In my previous July 20, 2018 letter to this Agency, I explained that FailSafe is a Texas based end user of telecommunications services employed during emergencies and mass calling events for police, fire departments, 911, banks, hospitals and others. FailSafe depends heavily on Independent Telephone Companies (ITCOs) and Competitive Local Exchange Carriers (CLECs) that are located outside major metropolitan areas which can be telecom choke points and natural targets for terrorism.

The purpose of this letter is twofold:

1. To express concerns about how emergency call traffic to and from the FailSafe cloud might inadvertently be labeled as "access stimulation" under the rules proposed by this Agency. In the extreme the proposed Order could deprive millions of small and medium sized businesses (SMBs) of a viable and affordable disaster recovery system.

2. To opine on public policy issues as a former Mayor as they relate to municipalities, first responders and 911 systems, including "Sunny Day" 911 Outages. I also offer policy comments on how to allow ITCOs to exploit a $12 billion market for Disaster Recovery as a Service (DRaaS) rather than to continuing to prop them up with taxes, surcharges and subsidies.

The undersigned is particularly interested in how the proposed Order comports with the Regulatory Flexibility Act (RFA) when evaluated in the context presented herein, and because we are requesting an Exemption under RFA rules to certain aspects of the proposed Order.

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1 Mr. Wrobel has been a disaster recovery expert for over 30 years, having personally designed and built telecommunications disaster recovery systems for American Airlines, USAA, Southern Methodist University and others. He has written dozens of corporate disaster recovery plans for such names as Fidelity Investments, Reliance Electric, and Dana Corporation. He is the author of 12 books and 1600 articles on the topic of disaster recovery. (See Exhibit 1)

I. Impact of Proposed Order on SMBs

1. FailSafe's customers use a patented, cloud-based, disaster recovery system called the Web Call Controller.™ Most are small and medium sized businesses (SMBs) which are large enough to consider disaster recovery important, but too small to develop a system on their own. They seek out disaster recovery services from the cloud, the same way they purvey other services.[2]

2. Consider a rural Sheriff department with only three lines. Even small customers like this will eventually experience a telephone cable cut that knocks them out of service. An even larger number regularly exhaust their inbound line capacity when dozens of people call at the same time to report an accident, funnel cloud, active shooter, or other eminent threat. This means that at the most critical times, callers get a busy signal.[3] (Exhibit 2)

3. Contrast this with a true story. A credit union in California operated for several weeks using the Web Call Controller™ after a catastrophic failure of their PBX. They were able to reroute their inbound calls to cell phones without even having to call a phone company. (Exhibit 3) These are only two examples but they help explain why SMBs need the service FailSafe provides.

4. Mass calling events due to cable cuts, tornadoes, earthquakes, school shootings, large swings in financial markets and other events can generate a lot of calls. The potential exists for those calls to be mis-identified as access stimulation under the proposed Order. As written, it is aimed principally at bad actors in the telecom industry, but the positive aspects of the proposed Order come at the expense of legitimate users like FailSafe and its underlying network providers.

II. Impact of the Proposed Order on Small ITCOs and Emergency Services

1. The Order as proposed would deprive ITCOs of a badly needed source of revenue as well as a transition path to the cloud. Arbitrary 6:1 or 3:1 ratios based on keeping bad actors in check have severe and unintended consequences in cases where lives, literally, can be on the line.

2. Consider another true story. A few years ago the City of Red Oak TX(Pop. 5000) had their City Hall burned to the ground. They were a client of the undersigned. We were able to restore their inbound communications within an hour to the Ellis County offices in Waxahachie. They operated there until new quarters could be established. This generated a large amount of call traffic, which under the proposed Order could easily be misidentified as access stimulation. In the extreme, the proposed Order could render mutual aid arrangements like these impossible.

3. The Order as proposed would subject large and small providers alike to even more liability for "Sunny Day" 911 outages.[4] This Agency has fined carriers over $50 million for Sunny Day outages. Regrettably, as the trend toward I/p-based e-911 continues, the prospect of introducing "blue screens" into the emergency services environment will only increase the risk.[5]

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2 Consider the many services SMBs procure from the cloud. They include but are not limited to off-site data storage like *Dropbox*, Video conferencing like *Go to Meeting*, and many other services. FailSafe offers telecommunications disaster recovery in the cloud.

3 This Agency acknowledges the issue of call congestion, which manifests itself in the form of blocked calls, fast busy signals and in the case of I/p telephony, garbled words. In a report just issued regarding a 37 hour CenturyLink outage last year, where 12,100,108 calls were blocked or degraded, this Agency found that *"long-distance voice callers experienced call quality issues, some customers received a fast-busy signal, some received an error message, and some just had a terrible connection with garbled words."* It also said, *"Fourteen other states, primarily in the western region of the country, experienced network congestion that may have affected service."* Source: December 27, 2018 CenturyLink Network Outage Report: A Report of the Public Safety and Homeland Security.

4 FailSafe backs up I/p services with reliable TDM services available though its ITCO suppliers. By offering FailSafe to their customers, ILECs mitigate their sunny day outage risk by offering their end users a reliable disaster recovery service.

4. This Agency has opined that covered 911 service providers are required to take reasonable measures to provide reliable 911 service in three specific respects: circuit diversity, central office backup power, and diverse network monitoring.[6]

5. They must also "certify annually whether they have, within the past year, audited the physical diversity of critical 911 circuits or equivalent data paths to each PSAP they serve, tagged those circuits to minimize the risk that they will be reconfigured at some future date, and eliminated all single points of failure."[7]

6. In the alternative, covered 911 service providers may describe "reasonably sufficient alternative measures they have taken to mitigate the risks associated with the lack of physical diversity."[8] Similar obligations apply to their network monitoring capabilities.[9]

III. FailSafe Does Not Share in Carrier Access Billing (CABS) Revenue

1. FailSafe has never engaged in CABS splitting with its ILEC and CLEC suppliers. CABS revenue generated by FailSafe and its end users is retained 100% by the ILEC or CLEC supplier under rules applicable to each carrier and long established under state and federal law.

2. FailSafe does lease surplus landline capacity from its ITCO suppliers at lawfully tariffed rates and has done so for almost two years. The tariffed landlines are on 499A reports, pay applicable taxes and EUCL fees, and serve bona-fide end users.

3. It is important to note that the Web Call Controller™ was not just invented yesterday with the sole purpose of generating CABS traffic. In fact, every one of the major incumbent ILEC/IXC providers have been generating call traffic to the Web Call Controller™ for 13 years. They have been getting paid CABS revenue for that traffic. The fact that small carriers found something in FailSafe that they could do easily, and that they wanted a piece of the DRaaS action enjoyed by the large incumbents, should come as no surprise to anyone.

4. The proposed Order reflects that this Agency is subject to an Administrative Procedure Act and that it must not be arbitrary and capricious. It states that courts have found this Agency "*must provide adequate explanation before it treats similarly situated parties differently.*"[10] To treat FailSafe's small ITCO suppliers differently than larger companies who have originated traffic to the Web Call Controller™ for 13 years would be patently unfair and discriminatory.

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5 *"When an emergency strikes, it's critical that Americans are able to use 911 to reach those who can help," "The CenturyLink service outage is therefore completely unacceptable, and its breadth and duration are particularly troubling."* FCC Chairman Ajit Pai in response to 12/28/19 CenturyLink outage.

6 December 27, 2018 CenturyLink Network Outage Report A Report of the Public Safety and Homeland Security which cited 14 47 CFR § 12.4(b)

7 911 Reliability Order, 28 FCC Rcd at 17503, para. 80; see also 47 CFR § 12.4(c)(1). Diversity audits check for "single points of failure" in network configurations, while tagging ensures that changes to critical 911 assets cannot be made without rigorous review.

8 911 Reliability Order, 28 FCC Rcd at 17503, para. 80; 47 CFR § 12.4(b). This 2013 proceeding deferred for future consideration whether network reliability requirements should be extended to originating service providers. See 911 Reliability Order, 28 FCC Rcd at 17528-29, para. 147.

9 47 CFR § 12.4(c)(3).

10 Page 32 of September 5, 2019 Report and Order Modification Docket 18-155 at 82.

IV. The Order as it Stands Would Deny ITCOs a Stake in a $12 Billion Industry

1. *TechNavio*, a leading research firm, places Disaster Recovery as a Service (DRaaS) as $9.35 Billion market. It forecasts the DRaaS market to grow at a Compound Annual Growth Rate (CAGR) of 36 percent over the period 2018-2022. *Markets and Markets* predicts a $12.54 Billion DRaaS market by 2022. From a policy perspective, the effective exclusion of millions of SMBs from this market, as small ITCO providers or small customers, would be regrettable.

2. At this very moment FailSafe continues to cultivate new relationships that concentrate on a critical subset of DRaaS known as Emergency Communications as a Service or ECaaS. ECaaS clearly is conducive to the public welfare and unrelated to the subject matter contained in the proposed Order, which addresses an entirely different issue.

3. As Exhibit 1 Page 4 shows, FailSafe employs "Pitchers" and "Catchers." Catchers, as the name implies, are ILECs and CLECs ready to 'catch' and process all the calls we send them during emergencies or mass calling events. Pitchers, as the name implies, 'pitch' (white label) FailSafe ECaaS services to their own end users. We are in active dialogue right now with ITCO and CLEC "pitchers" that collectively serve hundreds of thousands of locations and millions of SMB users. Our "catchers" are specifically selected based not on revenue splitting, but on the ability to get to decision makers quickly in an emergency. This is often next-to-impossible with the big carriers operating in the major metropolitan markets.

4. Large or small, FailSafe is non-discriminatory and inclusive of all carriers that can contribute. We have even visited with representatives for a number of the major ILEC/IXC telecom companies and have invited them to strengthen their existing relationship with FailSafe.

5. The proposed Order attempts to address the unintended consequence of *"penalizing innocent LECs that may have increased call volume due to new economic growth."*[11] In that section this Agency did not find arguments to be compelling because, in its words, *"NTCA offers no data or examples to demonstrate that there are LECs not involved in access stimulation that have traffic imbalances so extreme as to meet or even come close to a 6:1 ratio."*FailSafe respectfully disagrees based on the following:

   - In 1990 the AT&T long distance collapsed and blocked 50 million calls. Software in the SS7 network overwrote switching instructions resulting in a nationwide 9 hour outage.
   - A 37-hour CenturyLink outage that began on December 27, 2018 *"was caused by an equipment failure that was exacerbated by a network configuration error."* That outage blocked 12.1 million phone calls according to this Agency.
   - AT&T experienced a multi state 911 outage on June 2, 2019 that prevented end users from calling 911 and sending texts. The cause was not immediately disclosed.[12]
   - *Last week* on September 5, 2019 a power surge tripped a main equipment breaker in the Frontier Communications telephone office in Castle Valley UT. It eventually drained the backup batteries that support service out of that central office and knocked out all phone service until mid day last Thursday.

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11 Page 19 of September 5, 2019 Report and Order Modification Docket 18-155 at 46.

12 The FCC has adopted PSAP outage notification requirements where service providers discover outages that could affect the delivery of 911 calls. See New Part 4 of the Commission's Rules Concerning Disruptions to Communications, ET Docket No. 04-35, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 16830 (2004) (2004 Part 4 Report and Order); 47 CFR § 4.9.

Outages happen to the best of companies all the time. In fact, this Agency is arguably more aware of major outages than any other place around because carriers are required to report them.[13] This Agency knows first hand that thousands more telecom outages have occurred besides these four examples. With numbers of calls like these possible in a single outage, the potential for a relatively new company like FailSafe or its network suppliers, to be mis-labeled as "access stimulators" is concerning, unless everyone knows the rules up front.

V. Application of The Regulatory Flexibility Act (RFA)

1. In reply to our July 20, 2018 letter, this Agency stated that FailSafe failed to cite any LEC that has been misidentified as engaging in access stimulation, or how we would revise the current access stimulation definition to avoid any misidentification of call traffic that might result. Our concerns were characterized as hypothetical and *"already addressed in the existing rule."*[14] We disagree. FailSafe is a SMB. It has spent enormous resources to develop deploy, and patent its ECaaS services. FailSafe and its customers would unquestionably incur a high cost to comply with the proposed Order in terms of their ability to supply, consume, or afford ECaaS services. It makes more sense to classify FailSafe separately as Section 603(c) of the RFA contemplates.

2. The Regulatory Flexibility Act (RFA) requires agencies to consider the impact of regulatory changes on entities like FailSafe and its customers. These rules permit analysis of effective alternatives that minimize the impact on small entities, and then make the analyses available for public comment.[15] The RFA establishes a process to evaluate proposals that achieve regulatory goals without unduly burdening SMBs, erecting barriers to competition, or stifling innovation.

3. Agencies should release a FRFA only if they find that the final rule will not have a significant economic impact on a substantial number of small entities. This Agency included a FRFA in the proposed Order, but it has not adequately investigated the concerns expressed here or in my previous letter. The RFA requires agencies to revise their initial regulatory flexibility analysis based on public comments. In order to do this there must BE public comments, and include:

   - A statement of the significant issues raised by the public comments in response to a IRFA, a statement of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments.[16]
   - A description and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available.[17]
   - A description of the steps the agency has taken to minimize the significant adverse economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each of the other significant alternatives to the rule considered by the agency was rejected. [18] (Emphasis Added)

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13 See New Part 4 of the Commission's Rules Concerning Disruptions to Communications, ET Docket No. 04-35, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 16830, 16895-902, paras. 127-143 (2004).

14 Page 22 of September 5, 2019 Report and Order Modification Docket 18-155 at 53.

15 Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164 (codified at 5 U.S.C. § 601).

16 FailSafe has presented data that differentiates itself from the bad actors that are the subject of this Order and has requested an exemption on that basis.

17 Page 3 of September 5, 2019 FRFA included in the Report and Order Modification Docket 18-155 at 9 cites 99.9% of all businesses in the United States, or 28.8 million small businesses.

18 The Agency has not considered the existence of a company like FailSafe and its customers in the context of its order. We respectfully request that they do in the context of this provision.

VI. Formal Request for Exemption of Emergency Services and Overflow Traffic

The RFA requires agencies to adopt regulations that impose the least burden on small entities, or to mandate exemptions for small entities. Based on the information presented in this letter FailSafe hereby respectfully requests the following exemptions to the Proposed Order:

1. **An indefinite exemption from "Bill and Keep" for CABS access traffic associated with bona-fide SMB end users with less than 24 phone lines.** Small end users will have difficulty affording a cloud-based disaster recovery system if the tariffed services that form the points of ingress and egress to that system skyrocket in price after loss of the CABS subsidy. This exemption is intended to protect SMB users from being priced out of their disaster recovery and call overflow solution by preserving the use of CABS on emergency and call overflow traffic.

2. **A three year phase out of CABS Before "Bill and Keep" for other services related to emergency communications.** This is intended as a reasonable interim measure designed to help the ITCO industry transition from a CABS based environment to a cloud usage based environment. The same systems that measure CABS today are capable of measuring cloud usage tomorrow. This exemption would allow small ITCOs the benefit by transitioning into cloud services without a large capital investment. In fact, some of FailSafe's ITCO clients are right in the midst of their transition from a CABS environment to a cloud environment. To suddenly change the rules would be an unfair financial burden to these small organizations.

VII. Summary

FailSafe provides emergency communications to SMBs who have few other options available to build them for themselves. We are not a LEC, ITCO, or CLEC. Our underlying suppliers provide tariffed services to FailSafe pursuant to longstanding federal and state law. We are the bona-fide end user of those services and pay all associated 911, EUCL, Federal and State taxes on those services. FailSafe should not be penalized, even indirectly, for the conduct of others, but it would be if this Order is adopted without the recommended exemptions. We encourage your Agency to consider these exemptions when it finalizes its Order for all of the reasons presented herein.

The public policy question for this Agency is whether it makes more sense to support 1200 Independent Telcos with subsidies, or let them enter a $12 billion market where they already have the systems, capacity and expertise to be successful. The alternative would be to kill the ECaaS business in the cradle, just as ITCOs are learning about it and entering the business. This would unquestionably have public welfare consequences to public safety on numerous fronts. The right choice in this case would also be as simple as inclusion of the two modest exemptions described herein.

Respectfully Submitted,

Leo A. Wrobel, CEO

www.failsafecommunications.com
1 (866) 339-5444 Recorded Information
1 (214) 888-1300 Main Number

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1 Mr. Wrobel's disaster recovery clients since 1986 have included: *ACS, Ameritech, American Airlines Sabre Group, American Cyanamid, AT&T, Bell Labs, Bank of California, Bell South, Carlson Companies, Con Edison, City of Dallas, City of Tulsa, Dept. of Defense, EDS, Ericsson, Exxon, Fed Energy Reg Comm, Fidelity Investments, GTE, Fed Bureau Labor Stats, International Telecharge Inc, MCI, Northrup, Occidental, Pacific Gas & Elect, Pacific Health Care, Reliance Electric, Southern Bell, Southwestern Bell, State of Hawaii, Tel Aviv Stock Exchange, Tellabs, Texas Instruments, United Health Care, USAA, US Army, US Military Academy, Weyerhaeuser, and more.*

2 Author of *Disaster Recovery Planning for Telecommunications* © 1990, Artech House Books, *Managing Emerging Technology for Competitive Advantage* © 1993, I.S. Management Group Inc, *Implementing a Successful Telecom Disaster Recovery Program* © 1993, IS Management Group, *Writing Disaster Recovery Plans for Telecommunications and LANs* © 1994, Artech House Books, *Understanding Emerging Network Services, Pricing and Regulation* © 1995 Artech House Books, *Business Resumption Planning (First Edition)* © 1995 Auerbach / Taylor Publishing, *The MIS and LAN Managers Guide to Advanced Telecommunications* © 1995 IEEE Publishing, *The Definitive Guide to Business Resumption Planning* © 1997, Artech House Books, *Business Resumption Planning Second Edition* © 2005 Auerbach / Taylor Publishing, and *Disaster Recovery Planning for Communications and Critical Infrastructure* © 2006 Artech House.

About the Leo A. Wrobel Companies

Tel*LAW*Com Labs has managed over 100 complex technology disputes for 60+ clients since 2004, directly resulting in the recovery of millions of dollars from AT&T and other major carriers. We also write disaster recovery plans for phone companies, cable companies, VoIP and enhanced service providers, 911 centers, and Fortune 1000 clients. [1]

FailSafe Communications integrates Independent Telephone Companies (ITCOs) into its cloud to restore communications for end users in times of trouble. We generate new revenue for our ITCO partners, reduce their liability for 911 failures, improve rural call completion, and save lives.

About Our Founder

Leo A. Wrobel's talent for exploiting changes in laws, technology and regulation has earned him broad acclaim for over 30 years. Leo built the first computer disaster recovery center inside a telephone office in 1986. He was the first in Texas to run telephone traffic over a cable TV system in 1987. In 1994, Leo brokered a Master Services Agreement between a $14 billion manufacturing client and two of the largest local telephone companies in the world. The result was the largest network ever installed in Texas up to that time, including all regulatory approvals.

A Collocation Pioneer: First Computer Disaster Recovery Center in a Telephone CO in 1986.

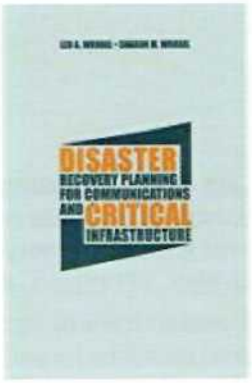
Leo was the first in the US to receive "unbundled" telecom pricing for one of his clients, a $76 billion diversified financial cooperative – a year before the Federal Telecom Act of 1996 was even passed! As CEO of a Dallas-based CLEC, Leo took his firm from a standing start to a 50 state presence in just three years including customers in the Airline, Finance, Education and Government markets. This included the sale of a disaster recovery system of Leo's design to a major airline, and 10,200 phone lines sold by Leo, *personally*, to a major university.

Leo and Sharon Wrobel

- Guest speaker for the Chinese Academy of Sciences in Beijing, in most of the 50 states, and in other locales as diverse as Santiago Chile and Tel Aviv Israel.
- Appeared on TV news programs including *Channel 4 (Dallas) News, Austin at Issue (NPR)* and others.
- Author of 12 books and over 1600 trade articles. [2]
- CEO of NaSPA Inc. a 32 year old not-for-profit advocacy for technology and telecommunications professionals.
- Former Mayor and City Councilman.
- Experience in over 50 lawsuits and regulatory proceedings resulting in collection of millions of dollars for his clients.
- Experienced Expert Witness in complex technology claims, including recovery for cable or fiber facility damage, and high stakes billing disputes for carriers and end users.

Exhibit 1 (Page 3 of 7)

FailSafe Communications Inc.
"Because Lives Are On The Line"™



..... "We got over $2.5 million in business from a major airline for a nickel. In view of that fact, no one has been able to convince Sharon and I that disaster recovery must be a losing proposition....."

- Leo A. Wrobel

This statement above is not only true, *it's published*. See Chapter 2 of *Disaster Recovery Planning for Communications and Critical Infrastructure* by Leo A. and Sharon M. Wrobel. © Artech House Books.

The Wrobels have done it again with FailSafe Communications. FailSafe allows Independent Telephone Companies (ITCOs) to generate significant new revenue as "Pitchers" or "Catchers." Here's how:

FailSafe Revenue for Pitchers

Pitchers are ITCOs that sell FailSafe to their own customers, such as police, fire, 911, hospitals, call centers, banks, and others. During disasters and network congestion, the patented FailSafe system duplicates the features of a high-end phone system for the ITCO customer and allows them to reroute lines in without calling a phone company. This FailSafe system is also a true story. It's *in operation* right now to over 300 customers including:

SENNHEISER · Bell Helicopter · American Red Cross · UHS · PennMillers · Scripps · Georgia's Own Credit Union · Neighborhood Health Plan · Tenet · PIMCO · Cleveland Clinic · CFE · HCC

Why ITCOs? ITCOs are outside major cities and telecom choke points that can be targets for terrorism. They are easier to contact in disasters when major providers can't be reached. ITCO partners are financially motivated too. Each time they send or receive calls to our cloud they earn new revenue. FailSafe or the ITCO partner collects a monthly subscription fee from the end user. When the end user exceeds a set allotment of cloud usage, the ITCO bills excess usage fees for us using the same systems they use to bill CABS or long distance. Want to learn more? For recorded information contact us at **(641) 793-2018.** If you like what you hear press "0" for a live person.

FailSafe Revenue for Catchers

FailSafe leases the following services from ITCOs: Collocation, Business Lines, UNE, SS7, Interconnection, and Roof Rights. "Catchers" can expand their service area nationwide by helping us process emergency calls. A user in trouble in California can generate call traffic for a small ITCO in Utah. Want to learn more? For recorded information contact us at **(641) 793-2018.** If you like what you hear, press "0" to be connected to a live person.

Is your Independent Telephone Company or CLEC For Sale?

Occasionally we acquire ITCOs and CLECs. If your company is considering a sale now or in the future, we would like to speak with you. Call us directly at **(214) 888-1300** for a Non-Disclosure Agreement and discussion.

FailSafe Communications Inc.
"Because Lives Are On The Line"™

The FailSafe Opportunity is Real

Thousands of Independent Telephone Companies (ITCOs) and Competitive Local Exchange Carriers (CLECs) face an uncertain future as they transition from a traditional telephone environment to cloud services. The transition is not an easy one. Carrier access revenues are down. Customers are fleeing landlines. "Triple Plays" that combine Phone, Internet and Television are dominated by players much larger than you. The financial pressure on ITCOs and CLECs has never been greater. Now you can do something about it.

Join FailSafe and build new revenue while you help users nationwide during times of trouble. FailSafe helps your CLEC or ITCO build revenue several different ways.

- Pitchers can sell FailSafe in their own name, e.g. ABC Telephone Company Disaster Recovery Service. Even the smallest police, fire departments, hospitals, businesses, or 911 centers can generate significant revenue, because FailSafe allows dozens of *additional call paths* into the cloud during disasters or call overflow conditions. Each *call path*, not each line, generates new revenue for the ITCO.
- Catchers can effectively expand their service area nationwide by helping us process emergency calls. A user in New York who is in trouble can generate call traffic for an ITCO in Iowa or Oregon.
- As customers disconnect landlines, an ITCO or CLEC can put that "spare" capacity back to work as a FailSafe affiliate. Subsidies increase too since they are still based in large part on landlines.
- Increase Carrier Access Billing System (CABS) revenue for now, and have a plan for when it phases out. Even after CABS revenue transitions to bill-and-keep, an affiliated ITCO or CLEC continues to bill cloud usage fees for FailSafe – with the same systems that they presently use to bill long distance and CABS!

Ask yourself this question: Should your ITCO or CLEC invest millions of dollars and one or two years to build its own "cloud" and *then* go out looking for its first customer? Or would it be better joining FailSafe, with no capital investment, and transition to the cloud with us? The choice should be obvious.

An Endorsement From Another FailSafe Stakeholder

Philip N. Diehl
35th Director of the U.S. Mint
and FailSafe Stakeholder

Philip N. Diehl was Director of Telephone Regulation for the Texas Public Utility Commission where he was instrumental in founding the state's first Lifeline telephone service. He later became the 35th Director of the United States Mint where he increased profits from $726 million to $2.6 billion during the span of his leadership. Suffice it to say that Mr. Diehl knows something about money. Here is what he has to say:

"FailSafe is an ingenious system to safeguard e-commerce, improve emergency response, and save lives. FailSafe will stop the bleeding for hundreds of Independent Telephone Companies operating in small towns, on reservations, in family businesses and in community owned cooperatives… This is why I am a proud FailSafe stakeholder and why every ITCO should consider FailSafe too."

FailSafe Communications Inc.
"Because Lives Are On The Line"™

911 Vulnerability

It has been characterized as the most complicated machine ever constructed by human beings. Our public telephone system is constantly vulnerable to disruption!

Make 911 and other Mission Critical service outages a thing of the past with a TRUE Telephone Company-grade solution.

The Risks Are Real for 911 Providers and ITCOs

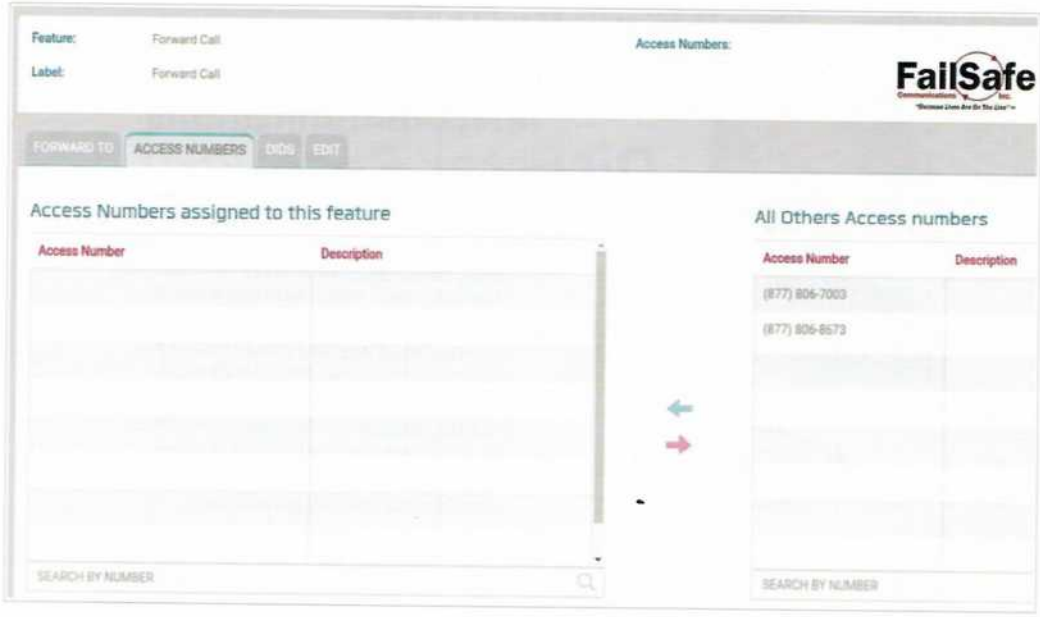
- 911 Providers: Over 80 buried facility disruptions occur every day in the United States that knock out telecommunications networks. You could be next.
- Carriers: The Federal Communications Commission (FCC) has fined carriers over $35 million in the last two years for "Sunny Day" outages affecting 911.
- 911 Providers: 911 centers can easily exhaust their capacity during events like severe weather or mass shootings that trigger high levels of 911 calls. A caller should ever get a fast busy when calling 911, but this is what happens.

The Solution is a "Win-Win" for 911 Providers and ITCOs

- Carriers: Earn new revenue by processing 911 overflow calls for FailSafe. Reduce your own liability for 911 failures by offering 911 centers an affordable solution.
- 911 Providers. Never deal with blocked 911 and emergency calls, *ever again.*

FailSafe Communications Inc.
"Because Lives Are On The Line"™

Call Overflow - How It Works for 911 Providers



End Users Can Activate From Anywhere

FailSafe or its ITCO affiliate provides the end user with a patented web-based interface that can be accessed from a personal computer or smart phone. In that interface the end user can define a default configuration for 911 overflow calls, such as directing them to a nearby 911 center where they have a mutual aid agreement.

FailSafe can brand these calls with a whisper message, such as *"The <your name> 911 center is experiencing an overflow condition and is unable to answer this call. If you can take this call please press 1. If not, press 2."* If the alternate center presses 1, the call is connected to them. If they press 2, the call goes to the next number or center you have defined such as a fire station, command van, even a cell phone in a squad car.

Other features include outbound notification, conference calling, voice mail, email, text notification and more. Most importantly, you do not have to call the phone company to implement or modify this service! Why risk not being able to reach your carrier in an emergency when YOU can stay in control from wherever you are?

Call us at the number below to arrange a demonstration.

FailSafe Communications Inc.
"Because Lives Are On The Line"™

Call Overflow - How It Works for ITCOs

It's Quick and Easy for a ITCO to Join FailSafe

FailSafe's ITCO affiliates are classified as "Pitchers," "Catchers." If the ITCO elects to be a Pitcher it markets FailSafe under its own brand name. We can print marketing materials upon request, similar to the card above, to include in the ITCO's phone bills. In this manner the ITCO reduces its liability by offering its customer a cost-effective backup alternative, whether the customer signs up or not. Catchers process emergency calls to and from the FailSafe cloud. They also provide us with Collocation, Business Lines, UNE, SS7, Interconnection, and Roof Rights, either out of their tariffs or under contract. An ITCO can be a Pitcher *and* a Catcher if approved.

As ITCO customers disconnect landlines, FailSafe puts that "spare" capacity back to work generating revenue. Increase federal and state subsidies, which are still largely tied to landlines. Increase Carrier Access Billing System (CABS) Revenue for now, and have a plan for when it phases out. Even after CABS revenue transitions to bill-and-keep, a FailSafe-affiliated ITCO or CLEC can continue to bill cloud usage fees for FailSafe – with the same systems that you presently use to bill long distance and CABS!

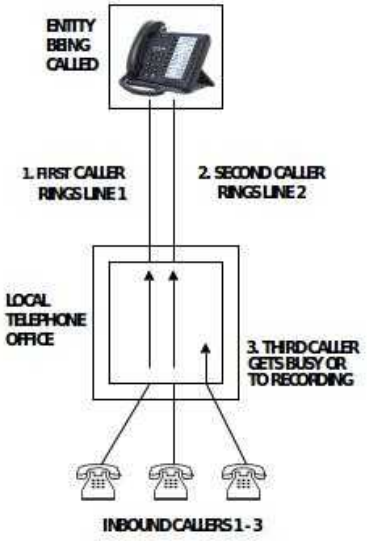
Other FailSafe Services Include: Rural Call Completion

The Federal Communications Commission is also concerned with Rural Call Completion rates and has levied significant fines against carriers that do not meet acceptable criteria. Luckily, the FailSafe system does more than disaster recovery. It can also be used to improve call completion rates. Rather than investing in expensive switching equipment that could easily become obsolete in a few years, why not send YOUR call surges and spikes to the FailSafe cloud? Call us at the number below for more details.

Exhibit 2

NETWORK CONGESTION

A Typical Day for a Small Business



A Congestion Event for a Small Business

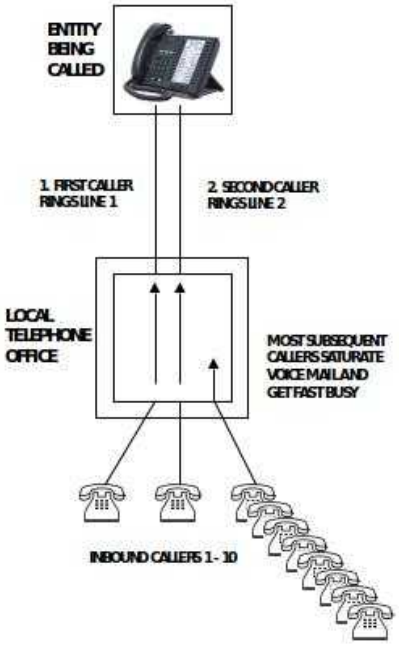


Exhibit 3

The FailSafe Emergency Communications System

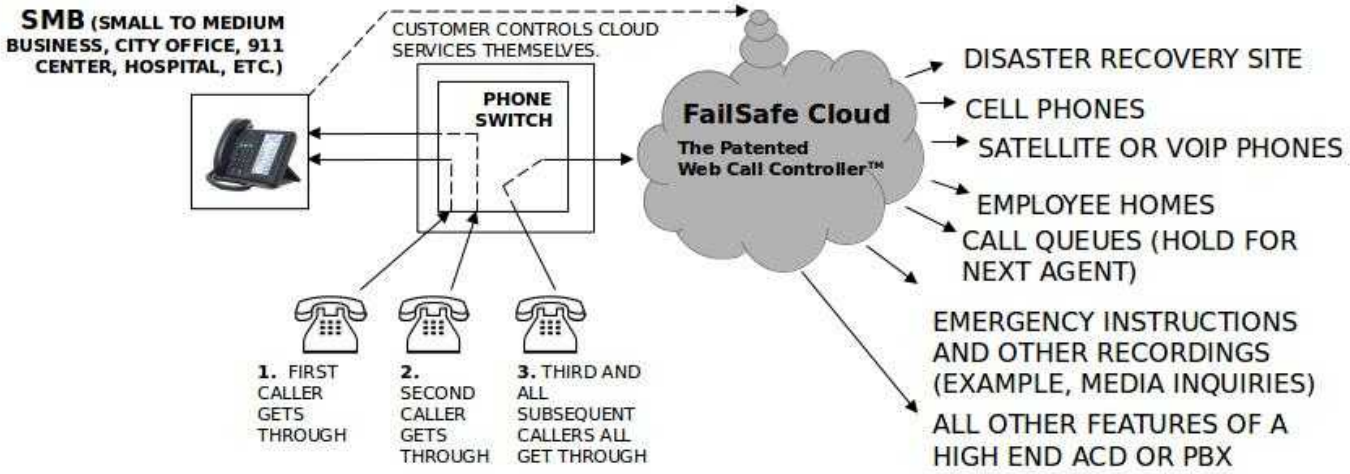


Exhibit 4

Companies that Depend on the Web Call Controller™

- Some of the Web Call Controller™ subscribers above are large organizations, but have small branch offices with the same issues as SMBs. These issues include a finite number of inbound lines for use in an emergency and a general lack of affordable Disaster Recovery options due to their size or location.

- As a general rule, if any phone company can serve these users FailSafe can serve these users.